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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,785	08/13/2001	Mark Thomas Cammarota	14966.1	8428

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/928,785

Applicant(s)

CAMMAROTA ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24,26,30,31 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24,26,30,31 and 38-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 11, 13, 15-18, 24, and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Harju (Des. 313,076).

With respect to claim 1, Harju discloses an absorbent article, as shown in figure 1, comprising an outer cover and an absorbent assembly, as shown in figure 2. Disposed on the outer cover are a permanent character graphic, an animal performing the human behavior of sitting, and an active object graphic, a stoplight, as shown in figures 1 and 3. The animal and stoplight are unrelated to each other.

With respect to claim 2, the permanent character graphic is shown sitting, which is performing an activity.

With respect to claim 3, a visual segmentation, a picture of a car, is disposed between the character graphic and the active object graphic, as shown in figure 3.

With respect to claim 4, the article further comprises a permanent object graphic, a flower, as shown in figure 3.

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With respect to claim 6, the permanent object graphic is not related in subject matter to the active object graphic.

With respect to claim 7, the permanent object graphic is interactively unrelated to the active object graphic.

With respect to claim 8, the article further comprises a visual segmentation, a picture of a car, that partially surrounds the permanent character graphic, as shown in figure 3.

With respect to claim 11, the article further comprises a visual segmentation, a picture of a car, that partially surrounds the active object graphic, as shown in figure 3.

With respect to claim 13, the article further comprises a visual segmentation element, a sign, formed of a line segment, as shown in figure 1.

With respect to claim 15, the line segment is perpendicular to an imaginary line that may be drawn through the permanent character graphic and the active object graphic, as shown in figure 3.

With respect to claim 16, the visual segmentation element is visible, and therefore inherently has a color.

With respect to claim 17, the visual segmentation element partially surrounds the permanent character graphic, as shown in figure 3.

With respect to claim 18, the visual segmentation element comprises a line segment that is perpendicular to an imaginary line that may be drawn through the permanent character graphic and the active object graphic, as shown in figure 3.

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With respect to claim 24, the permanent character graphic is disposed on the exterior surface of the outer cover, as shown in figure 3, and the active object graphic is disposed on the interior surface of the outer cover, as shown in figure 2.

With respect to claim 30, the article has longitudinal and transverse center lines, first and second end edges, first and second waist regions, and a crotch region. The permanent character graphic is shown in the first waist region, and the active object graphic extends into the crotch region, as shown in figure 3.

With respect to claim 31, the active object graphic is disposed between the transverse center line and the permanent character graphic, as shown in figure 1.

With respect to claim 38, the article is a diaper, which may be used as a training pant, having longitudinal and transverse center lines, first and second end edges, first and second waist regions, and a crotch region, as shown in figure 3. The article comprises an outer cover and an absorbent assembly, as shown in figure 2. A permanent character graphic, an animal, is disposed on the outer cover in the first waist region, as shown in figure 1. A permanent object graphic, a flower, is

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 9, 10, 12, 14, 19, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harju (Des. 313,076).

With respect to claims 5 and 38, Harju discloses all aspects of the claimed invention with the exception of the permanent character graphic being involved in an activity utilizing the permanent object graphic. It would have been an obvious matter of design choice for the permanent character graphic being involved in an activity utilizing the permanent object graphic, since this particular configuration of graphics serves no particular purpose and solves no stated problem.

With respect to claims 9 and 12, Harju discloses all aspects of the claimed invention with the exception of the segmentation graphic completely surrounding the active object graphic. It would have been an obvious matter of design choice for the segmentation graphic to completely surround the active object graphic, since this particular configuration of graphics serves no particular purpose and solves no stated problem.

With respect to claim 10, Harju discloses all aspects of the claimed invention with the exception of the permanent object graphic being interactively interrelated with the permanent character graphic. It would have been an obvious matter of design choice for the permanent object graphic to be interactively interrelated with the permanent character graphic, since this particular configuration of graphics serves no particular purpose and solves no stated problem.

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With respect to claim 14, Harju discloses all aspects of the claimed invention with the exception of the line segment being curved. It would have been an obvious matter of design choice for the line segment to be curved, since this particular configuration of graphics serves no particular purpose and solves no stated problem.

With respect to claim 19, Harju discloses all aspects of the claimed invention with the exception of the defined floor graphic with the permanent character graphic positioned thereon. It would have been an obvious matter of design choice for the article to have a defined floor graphic with the permanent character graphic positioned thereon, since this particular configuration of graphics serves no particular purpose and solves no stated problem.

Claims 20 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harju (Des. 313,076) as applied to claims 1 and 38 above, and further in view of Timmons et al. (4,022,211).

Harju discloses all aspects of the claimed invention but remains silent as to the nature of the ink used in the active object graphic. Timmons discloses a diaper having an active object graphic, the graphic comprising ink that is soluble in urine, as described in column 3, lines 9-14. This allows the active object graphic to disappear upon wetting, indicating the diaper is wet, as described in column 2, lines 9-13. It would therefore be obvious to one of ordinary skill in the art at the time of invention to use ink that is soluble in urine, as taught by

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Timmons, in the active object graphic of Harju, to indicate when the diaper has been wetted.

Claims 21, 22, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harju (Des. 313,076) as applied to claims 1 and 38 above, and further in view of Howell (5,389,093).

Harju discloses all aspects of the claimed invention but remains silent as to the nature of the ink used in the active object graphic. Howell discloses a diaper having an active object graphic, the graphic comprising ink that appears and therefore changes color when exposed to urine, as described in column 3, lines 34-38. This allows the active object graphic to appear upon wetting, indicating the diaper is wet, as described the abstract. It would therefore be obvious to one of ordinary skill in the art at the time of invention to use ink that appears and changes color when exposed to urine, as taught by Howell, in the active object graphic of Harju, to indicate when the diaper has been wetted.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harju (Des. 313,076) as applied to claim 1 above, and further in view of Jitoe et al. (5,766,212).

Harju discloses all aspects of the claimed invention with the exception of the active object graphic being disposed on a surface of the absorbent assembly that faces the outer cover. Jitoe discloses a diaper having an active object graphic 19 disposed on the surface 4B of the absorbent assembly 4 that faces the outer cover, as shown in figures 1 and 7. Placement of the graphic on the

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surface of the absorbent assembly allows the graphic to come in contact with urine quickly. It would have been obvious to one of ordinary skill in the art at the time of invention to dispose the active object graphic of Harju on a surface of the absorbent assembly, as taught by Jitoe, to allow the graphic to come in contact with urine quickly.

### ***Response to Arguments***

Applicant's arguments filed 20 July 2004 have been fully considered but they are not persuasive.

In response to the applicant's argument that Harju fails to disclose a "character graphic," as defined in the instant specification, it is noted that the graphics of Jarju show animals that are sitting. The act of sitting is a typical behavior for a human. Therefore, a figure depicting an animal sitting fulfills the definition of "character graphic," and Harju therefore fulfills the claimed limitations.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory

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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (703) 308-1412. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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September 23, 2004

  
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